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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------------------------------------------------------------------------------------------|-------------|------------------------|---------------------|------------------|
| 10/577,084 | 05/18/2006 | Gwénaëlle Bestel-Corre | 2912956-027000 | 2084 |
| 84331 | 7590 | 06/24/2010 | | |
| Baker Donelson Bearman, Caldwell & Berkowitz, PC 555 Eleventh Street, NW, Sixth Floor Washington, DC 20004 | | | | |
| EXAMINER | | | | |
| VOGEL, NANCY TREPTOW | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1636 | | | | |
| NOTIFICATION DATE | | DELIVERY MODE | | |
| 06/24/2010 | | ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/577,084

Applicant(s)

BESTEL-CORRE ET AL.

Examiner

NANCY VOGEL

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-13 are pending in the case.

Examination has been extended to claims 5-10, 13.

Any rejection of record in the previous action not addressed in this office action is withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 5-8, 11, and by dependence claims 9,10, 12, 13 are vague and indefinite in the recitation of "deletion of at least one gene coding for a quinine oxidoreductase and/or a soluble transhydrogenase" and "deletion of at least one gene coding for a phosphoglucose isomerase and/or a phosphofructokinase" since it is not clear whether it is intended that "at least one gene coding for" is intended to mean that, for instance, two genes coding for a phosphoglucose isomerase, are deleted, as one option encompassed, or whether it is intended to mean that the possibilities encompassed by the first phrase are (1) the gene encoding phosphoglucose isomerase only is deleted (2) the gene encoding phosphofructokinase only is deleted, or (3) both genes are deleted.

Claim 1 is vague and indefinite in the recitation of "a modification that favours at least one..." since it is not clear what is intended by "favouring" an enzyme activity.

Claim 5 and 11 are vague and indefinite in the recitation of "so as to cause it to utilize NADP preferentially" since this is a relative term, and it is not clear to what the utilization is being compared.

Claim 11 is vague and indefinite in the recitation of (c) optionally modifying at least one gene coding for at least one of a dihydrolipoamide dehydrogenase and a glyceraldehyde 3-phosphate dehydrogenase, so as to cause it to utilize NADP preferentially, which deletion and modification are carried out..." since it is not clear what the phrase "which deletion and modification" refer to. Since applicant's amendment has made this phrase a part of part (c), in which there is no recitation of "modification", it is unclear what the phrases that include and follow "which deletion and modification" are intended to refer. For instance, it is not clear to what the phrases "either by converting the strain by means of an appropriate vector containing at least one gene coding for one or more enzymes involved in the biotransformation of at least one of a substance of interest and at least one selection marker genes, or by modifying the strength of the endogenous promoter or promoters controlling the gene or genes to be overexpressed" in part (c) are intended to refer. Furthermore, the claim is vague and indefinite in the recitation of "either by converting the strain by means of an appropriate vector containing at least one gene coding for one or more enzymes involved in the biotransformation of at least one of a substance of interest" since it is not clear how this is related to the preceding recitation of "overexpressing at least one gene coding for a

glucose 6-phosphate dehydrogenase...". It is unclear how this phrase relates to the rest of the claim. The claim is so unclear as to preclude understanding of the intended subject matter and should be reviewed and amended for clarification.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NANCY VOGEL whose telephone number is (571)272-0780. The examiner can normally be reached on 7:00 - 3:30, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (571) 272-0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NANCY VOGEL/

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Primary Examiner, Art Unit 1636

NV

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